

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	
)	Chapter 11
)	
YELLOW CORPORATION <i>et al.</i> ,)	Case No. 23-11069 (CTG)
)	(Jointly Administered)
Debtors.)	
)	Related Docket No. 2576
)	Response Deadline April 4, 2024 (by consent)
)	Hearing Date: April 11, 2024 @11:00am
)	

**DECLARATION OF KENNETH R. STILWELL IN SUPPORT OF THE NEW YORK STATE
TEAMSTERS COUNCIL HEALTH AND HOSPITAL FUND’S LIMITED RESPONSE TO
DEBTORS’ THIRD OMNIBUS OBJECTION TO PROOFS OF CLAIM FOR WARN
LIABILITY**

I, Kenneth R. Stilwell, under penalty of perjury, declare as follows:

1. I am the Executive Administrator of the New York State Teamsters Council Health and Hospital Fund (the “New York Health Fund”). Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and submit the declaration in support of the **NEW YORK STATE TEAMSTERS COUNCIL HEALTH AND HOSPITAL FUND’S LIMITED RESPONSE TO DEBTORS’ THIRD OMNIBUS OBJECTION TO PROOFS OF CLAIM FOR WARN LIABILITY.**

2. The New York Health Fund was created and exist pursuant to an Agreement and Declaration of Trust entered into between participating employers and union locals affiliated with the International Brotherhood of Teamsters (the “IBT”) and is a “multiemployer plan” as defined in Section 3(37)(A) of the Employee Retirement Income Security Act of 1974, as amended. (“ERISA”), 29 U.S.C. §1002(37)(A). The New York Health Fund is an “employee benefit plan” (the “Plan”) as defined in ERISA Section 3(3), 29 U.S.C. §1002(3).

3. There are approximately 468 employers that participate in New York Health Fund, representing more than 10,600 active participants. The New York Health Fund receives self-reported contributions remitted by participating employers on behalf of covered employees pursuant to collective bargaining agreements with the IBT and participation agreements among participating employers, IBT and New York Health Fund. The contributions and investments thereon are held in trust and used for the exclusive purpose of providing health and welfare benefits to participants and beneficiaries (and defraying reasonable administrative expenses) of the New York Health Fund as required by ERISA Sections 403(a) and 404(a)(1)(A)(i)(ii), 29 U.S.C. §§1103 (a) and 1104 (a)(1)(A)(i)(ii).

4. Several of the Debtors employing IBT affiliated former employees of Yellow Corporation subsidiaries participated in the New York Health Fund to include: YRC Inc., USF Holland, LLC and New Penn Motor Express, LLC (the “Debtors”). The Debtors are “employer[s]” in the Plan as defined by ERISA Section 3(5), 29 U.S.C. §1002(5).

5. As participating employers, the Debtors were signatory to collective bargaining agreements with the IBT (the “Collective Bargaining Agreements”) which required, among other things, employee benefit contributions to the New York Health Fund on behalf of covered employees for all compensable periods. **(See attached Exhibit A.)** The Debtors were also signatory to participation agreements by and among the Debtors, IBT and New York Health Fund (the “Participation Agreements”) which further required Debtors to remit employee benefit contributions to the New York Health Fund for all compensable periods as part of the covered employees’ compensation. **(See attached Exhibit B.)**

6. Upon receipt of the employee benefit contributions, the New York Health Fund provided hundreds of Debtors’ covered “employees”, as they are defined in ERISA Section 3(6), 29 U.S.C. §1002 (6), with health and welfare benefits including, but not limited to, hospital, medical, surgical, prescription, accident, disability, death, dental and prepaid legal services.

7. The Debtors’ covered “employee[s]” are “participants” in the Plan as defined in ERISA Section 3(7), 29 U.S.C. §1002(7).

8. The New York Health Fund filed five (5) Proofs of Claim for employee benefit contributions owed on behalf of the aggrieved employees who are “participants” in the Plan as part of the compensation due them for the wages and benefits payable by Debtors as a result of their violations of the WARN Acts.

9. The Proofs of Claim filed by the New York Health Fund are designated as claim numbers 4456, 4457, 4458, 4459 and 4460 and include employee benefit contributions payable by Debtors as compensation on behalf of the aggrieved employees for the 60-day period under the WARN Acts in the aggregate amount of \$1,580,645.37.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: April 4, 2024

/s/Kenneth R. Stilwell
Kenneth R. Stilwell
Executive Administrator